

UNITED STATES DISTRICT COURT

for the
Western District of North Carolina

United States of America

v.

Herman Junior Byrd

Date of Original Judgment: March 31, 1999Date of Last Amended Judgment: January 31, 2003) Case No: 0419 5:97CR00109) USM No: 13043-058

) Caleb H. Newman

) Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)AND NOW, this 24th day of February, 2016,

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction of sentence pursuant to Amendment 782 to the Sentencing Guidelines, and taking into account the policy statement set forth at USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed **aggregate** sentence of imprisonment (as the last judgment issued) of 480 months is **reduced to** 262 months.

If the amount of time the defendant has served as of November 1, 2015, exceeds the reduced sentence stated in this Order, the sentence is instead reduced to a sentence of time served as of November 1, 2015.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Original Offense Level: <u>43</u>	Amended Offense Level: <u>37</u>
Criminal History Category: <u>III</u>	Criminal History Category: <u>III</u>
Original Guideline Range: <u>Life</u>	Amended Guideline Range: <u>240 months</u>

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☒ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.
- ☐ Amendment 782 is subject to a Special Instruction at USSG § 1B1.10(e)(1) that reduced sentences shall not take effect until November 1, 2015, or later. Since this defendant's projected GCT release date is, Amendment 782 is not applicable in this case.
- ☒ The Reduced sentence is based upon Amendment ☐ 750 ☒ 782
- ☐ Other (explain): The revised aggregate sentence for Counts One and Two was properly achieved by applying the "stacking rule" set forth in USSG § 5G1.2(d), wherein consecutive sentences are imposed in order to obtain a prison term within the prescribed guideline range.

III. ADDITIONAL COMMENTS

Upon release from imprisonment, and absent a residential plan accepted by the U.S. Probation Office prior to release from incarceration, it is ordered that as a condition of supervised release the defendant shall submit to the local Resident Reentry Center for a period not to exceed 90 days, with work release, at the direction of the U.S. Probation Office.

Except as provided above, all provisions of the judgment dated March 31, 1999 as amended January 31, 2003 shall remain in effect.

IT IS SO ORDERED.Order Date: February 24, 2016

Effective Date: Click here to enter a date.
(if different from order date)



U. S. District Judge
Title of Signing Officer

